SUPREME COURT, U.S.
APR 6 - 2010

No. 09-997

IN THE

Supreme Court of the United States

AL DICKSON, FRED RIGGS, DONNA SINGER AND MICHELE LYMAN AND HELEN VALDEZ, PETITIONERS

v.

SAN JUAN COUNTY AND CURRENT COMMISSIONERS; SAN JUAN HEALTH SERVICES DISTRICT AND CURRENT BOARD MEMBERS; J. TYRON LEWIS; BILL REDD; CRAIG HALLS; REID M. WOOD; CLEAL BRADFORD; ROGER ATCITTY; JOHN LEWIS; JOHN HOUSEKEEPER; KAREN ADAMS; PATSY SHUMWAY; RICK BAILEY; LAURIE SCHAFER; LYN STEVENS; JAMES D. REDD; L. VAL JONES; MANFRED R. NELSON; RICHARD BAILEY; MARILEE BAILEY; ORA LEE BLACK; GARY HOLLADAY; LORI WALLACE; CARLA GRIMSHAW; GLORIA YANITO; JULIE BRONSON; TRUCK/FARMER'S INSURANCE; R. DENNIS ICKES.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE TENTH CIRCUIT

REPLY BRIEF

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Now comes the Petitioners to reply to the Respondent's brief in opposition to the Petition, as follows. The County, Truck and Mr. Ickes are not responding to the Petition:

I. PETITIONERS FACTS ARE NOT DISPUTED

The Respondents' brief does not dispute the facts of wilful intentional harms to all the Petitioners. "A detailed recitation of the factual background of the case is unnecessary...." Resp. brief pg. 2.

II. RESPONDENTS RECHARACTERIZATION OF THE CASE IS A 'RED HERRING' AVOIDING DEALING WITH JURISDICTION ISSUES

There is no dispute to the Petitioners' law. The Respondents' argument that recharacterizes the case as a Rule 60 and 'law of the case' type of case, is a 'red herring' meant to divert the Court's attention from the true and valid *undisputed* issue: i.e. these Petitioners have been deprived of all access to due process and an evidentiary hearing by;

(a) this Court's Montana [1]doctrine (Petitioners' Singer, Riggs, and Dickson)(denying all Navajo Court authority over non Indians); and
(b) this Court's Federal Rule of Civil Procedure ("FRCP") at 16 (Petitioners Lyman and Valdez)(allowing discretionary dismissal of their evidentiary based claims *without an evidentiary hearing*),

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[1] Montana v. U.S. 450 U.S. 544, 565-566 (1981).

thus rendering such judgments void [2] as beyond U.S. Constitutional Article III authority. The Respondents fail to explain how or why the Court can exercise the such 'presumed' jurisdictional authority these Petitioners directly challenge.

III. RESPONDENTS DO NOT FULLY INFORM THE COURT AS TO WHY THE 10TH CIRCUIT COURT JOINED THE PETITIONER'S CASES

For Petitioners Lyman and Valdez, the Respondents do not inform this Court that it is they who initially sought to combine the Lyman and Valdez 10th Circuit case 07-4267 into the 10th Circuit's case 08-4148 for Singer, Dickson, and Riggs. Contrary to Respondents, the 10th Circuit did more than just place Lyman and Valdez' name in the caption, it addressed their Respondent initiated review of their case in Dickson v. San Juan County, 2009 U.S. App. LEXIS 26908, fn. 2 (10th Cir. Dec. 10, 2009), granting the *Respondents*' request to consider that case, thereby incorporating the case by reference into 10th Circuit case 08-4148--- as they were combined initially in the U.S. District Court case

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[2] "A judgment rendered in violation of due process is void in the rendering State and is not entitled to full faith and credit elsewhere." World-Wide Volkswagen Corp. v. Woodson, 444 U.S. 286 (1980). "[T]he constitution, by prohibiting an act, renders it void, if done; otherwise, the prohibition were nugatory. Thus, the warrant is a nullity." Anderson v. Dunn, 19 U.S. 204, 217 (1821). "Courts are constituted by authority, and they cannot go beyond the power delegated to them. If they act beyond that authority, and certainly in contravention of it, their judgments and orders are regarded as nullities. They are not voidable, but simply void, and this even prior to reversal." Valley v. Northern Fire & Marine Ins. Co., 254 U.S. 348, 354 (1920).

2:00cv0584 in 2000. The 10th Cir. Panel did not have to do so, but it did. Further, the Respondents error by saying this Petition is to 'revive' that case, Resp. brief fn. 1, because a 'void judgment' never becomes final, and is always void even prior to reversal, leaving nothing to 'revive'. Valley, *supra.*

IV. PETITIONERS DID ADDRESS THE 'LAW OF THE CASE'

For all Petitioners, contrary to Respondents' assertion, in fact the "law of the case" doctrine *was* addressed in the Petition. For all the Petitioners, a judgment issued depriving all of access to due process, can never be the 'law of the case' being Constitutionally void. Fn. 2 *supra.* For Navajo Court Petitioners Dickson, Riggs and Singer, it was shown that for the "Montana" doctrine, the law of the case doctrine only apparently is applied when it is 'anti-Indian'. The MacArthur v. San Juan County, 309 F.3d 12116 (10th Cir. 2002) ruling clearly stated that minor political subdivisions do not enjoy any state immunity for Navajo or Treaty violations, while the MacArthur v. San Juan County, 497 F.3d 1057, 1067(10th Cir. 2007) ruled they did, and without the required *en banc* hearing.

V. RESPONDENTS DO NOT EXPLAIN WHAT IS BEING ENJOINED, OR HOW SUCH AN INJUNCTION SWALLOWS ALL OTHER LAW WHOLE

Respondents cite to their injunctive relief, without telling the Court *what* Petitioners' actions are being enjoined. 2002 MacArthur mandated the application of Nat'l Farmers Union Ins. v. Crow Tribe, 471 U.S. 845

(1985). Now, Petitioners by Montana are (a) wholly deprived of their Nat'l Farmer's exhaustion by MacArthur v. San Juan county 566 F. Supp. 2d 1239 (D. Utah 2008) and (b) wholly deprived of their 2005 MacArthur v. San Juan County 391 F. Suupp. 2d 895 (D. Utah 2005) exhaustive National Farmer's analysis of Congressional intent wherein the *District Court* found Montana should never apply to the Navajo Nation's Aneth Extension. [3]

VI. RESPONDENTS DO NOT DISPUTE FEDERAL COURTS EXCEED JURISDICTION BY DIMINISHING NAVAJO COURT AUTHORITY

Respondents offer no law to rebut the Petitioner's citations to this Court's holdings of National Farmer and Lone Wolf v. Hitchcock, 187 U.S. 553 (1903) that solidly state all Federal Courts have no subject matter jurisdiction to limit Tribal Court civil authority over non Indians beyond the intent of Congress and the President, as is being done here. "...[T]he power has always been deemed a political one not subject to be controlled by the courts." Id. At 553. If immunities are

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[3] Respondents do not dispute that this Petition and case is the first time in Indian law history where this Court's Montana's judicially-created doctrine is swallowing all other law to the contrary fully depriving all like-situated Plaintiffs of all access to Due Process anywhere both by non Indian immunity and by lack of enforeability. The U.S. District Court 2005 MacArthur is the most exhaustive Court analysis of Indian law to be issued by any Court in United States jurisprudence... a sound legal basis for saying Federal Courts exceed their authority to diminish Navajo authority outside Congress' intent.

to be defined, it is for Congress to set them forth. [4] 2005 MacArthur says it hasn't.

VII. RESPONDENTS DO NOT DISPUTE THEY WENT OUTSIDE FEDERAL COURT AND APPELLATE COURT AUTHORITY TO PUNISH THIS ATTORNEY FOR CHALLENGING THIS COURT'S LAW

Marbury says "But where a specific duty is assigned by law, and individual rights depend upon the performance of that duty, it seems equally clear that the individual who considers himself injured has a right to resort to the laws of his country for a remedy." Id. Attorneys should not be punished, by a state bar, at the behest of federal court opposing counsel, second-guessing federal courts that consistently refuse to invitations to discipline an attorney, for the attorney seeking Marbury relief *in whatever forum the law provides for her clients.*

VIII. RESPONDENTS DO NOT DISPUTE PEACEFUL RESOLUTION OF THESE ISSUES IS ESSENTIAL TO PREVENT SELF-HELP ALTERNATIVES

Respondents do not dispute this Court held in McCulloch v. Maryland, 17 U.S. 4 Wheat. 316 316 (1819), if the conflicts between this Court and Congress are not resolved here peacefully, the issue will "remain

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[4] "The very essence of civil liberty certainly consists in the right of every individual to claim the protection of the laws whenever he receives an injury. One of the first duties of government is to afford that protection." Marbury v. Madison, 5 U.S. 137, 163 (1803).

a source of hostile legislation, perhaps, of hostility of a still more serious nature..... On the Supreme Court of the United States has the Constitution of our country devolved this important duty." Id. at 400-401. Accepting this Petition will create Courts as instruments of peace generating clarity, predictability, consistency and adequate notice as to what the law is in areas of law now infamous for incoherency.

CONCLUSION

For all the foregoing reasons, these Petitioners were doubly injured, first by the Defendants on facts they do not dispute, willfully, blatently, with callous disregard for their rights, and then injured by Court's depriving them of their only due process. This petition, at this time, is just the right petition, for this Court to use, to resolve the conflicts in law Petitioners have identified.

Respectfully submitted,
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